

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE ESTATE OF LORETTE JOLLES SHEFNER :
by and through its executors Mr. Barry Shefner, :
Ms. Ariela Braun, and Mr. Leon Miller, :

Plaintiff, :

-against- :

MAURICE TUCHMAN, ESTI DUNOW, the :
GALERIE CAZEAU-BÉRAUDIÈRE, the :
NATIONAL GALLERY OF ART, LONTREL :
TRADING, and JOHN DOES 1-10, :

Defendants. :
: X

Case No. 08 CIV 4443

**DECLARATION OF F.
PAUL GREENE**

F. PAUL GREENE, being duly sworn, deposes and states:

1. I am an attorney admitted to practice in the United States District Court for the Southern District of New York, and am an Associate with the law firm of Alston & Bird LLP. I am an attorney of record for Plaintiff the Estate of Lorette Jolles Shefner (the "Estate"), and I submit this declaration in support of Plaintiff's Request for Entry of Default against Defendant the Galerie Cazeau Béraudière. The facts contained in this Declaration are based upon my personal knowledge.

2. The Estate filed a Summons and Complaint in this action on May 12, 2008.

3. On May 12, 2008, the Estate (through counsel) sent a copy of the Complaint to the Galerie Cazeau Béraudière along with a waiver of service form, pursuant to Fed. R. Civ. P. 4(d).

4. Defendant the Galerie Cazeau Béraudière never responded to the Estate's request for waiver of service, nor has it otherwise returned an executed service waiver.

5. Defendant the Galerie Cazeau Béraudière was served with a copy of the Summons and Complaint on August 19, 2008, pursuant to Fed. R. Civ P. 4(f). See Docket Entry No. 34 and attachments thereto, true and accurate copies of which are attached hereto as Exhibit A. The attached declaration of Philippe Xavier-Bender—a practicing French attorney with over 30 years experience and familiarity with service under the Hague Convention—confirms that service upon the Galerie Cazeau Béraudière was properly effected. (*See* Declaration of Philippe Xavier-Bender, dated September 17, 2008, attached hereto as Exhibit B.)

6. Defendant the Galerie Cazeau Béraudière has failed to answer or otherwise respond to the Complaint, and more than twenty (20) days have elapsed since the date on which Defendant the Galerie Cazeau Béraudière was served with the Summons and Complaint.

7. Accordingly, the time within which Defendant the Galerie Cazeau Béraudière may answer or otherwise move with respect to the Complaint has expired, and Defendant the Galerie Cazeau Béraudière has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

8. Defendant the Galerie Cazeau Béraudière is not an infant or incompetent, and is not presently in the military service of the United States. Upon information and belief, Defendant the Galerie Cazeau Béraudière is a business entity organized under the laws of France.

9. The Estate thus respectfully requests that the default of Defendant the Galerie Cazeau Béraudière be noted by the Clerk of the Court.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Dated: New York, New York
September 24, 2008



F. Paul Greene